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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,352	07/03/2001	Bill Crider	CRIDER1	1089
6980	7590	01/26/2004	EXAMINER	
TROUTMAN SANDERS LLP BANK OF AMERICA PLAZA, SUITE 5200 600 PEACHTREE STREET, NE ATLANTA, GA 30308-2216			BECKER, DREW E	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/898,352

Applicant(s)

CRIDER ET AL.

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 13 is objected to because of the following informalities: line 2 recites "lest". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Halden et al [Pat. No. 5,158,794].

Halden et al teach a method of processing chicken by deboning the chicken into individual pieces (column 1, lines 35-47), , injecting starch into the muscle fibers via needles, which is followed by vacuum tumbling (column 2, lines 6-41), the meat

inherently contacting the ambient environment when it is punctured by the needles, and cooking for less than an hour (column 2, lines 45-54).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halden et al as applied above, in view of Savage et al [Pat. No. 3,506,455].

Halden et al teach the above mentioned concepts. Halden et al do not teach 15% starch. Savage et al teach a method of injecting 15% starch into meats (column 2, line 9). It would have been obvious to one of ordinary skill in the art to incorporate the 15% starch of Savage et al into the invention of Halden et al since both are directed to methods of processing meat, since Halden et al already included injecting starch into poultry meat (column 2, lines 6-41), and since Savage et al teach that this amount of starch binds to the meat fluids and prevents their loss during cooking (column 1, lines 15-20).

7. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halden et al as applied above, in view of Purser [Pat. No. 6,319,527].

Halden et al teach the above mentioned concepts. Halden et al do not teach a pressure level of 25" Hg for at least 20 minutes. Purser teaches a method of treating

poultry meat by vacuum tumbling it at 20 psi for up to 30 minutes (column 2, line 20). It would have been obvious to one of ordinary skill in the art to incorporate the tumbling conditions of Purser into the invention of Halden et al since both are directed to methods of processing poultry meat, since Halden et al already included vacuum tumbling (column 2, line 9), since these levels were commonly used as shown by Purser (column 2, line 20), and since different sized meat pieces would have required different tumbling conditions.

8. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halden et al as applied above, in view of Gisslen [Professional Cooking].

Halden et al teach the above mentioned concepts. Halden et al also teach the treatment solution within the vacuum tumbler (column 3, Example 1). Halden et al do not teach removing the membrane. Gisslen teaches a removing elastin from meat in order to improve tenderness (page 197). It would have been obvious to one of ordinary skill in the art to incorporate the elastin removal of Gisslen into the invention of Halden et al since both are directed to methods of treating meat, since Halden et al already included needles which penetrated the membranes (column 4, line 21), and since removal of elastin, such a membrane material, was commonly known as shown by Gisslen.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halden et al, in view of Gisslen, as applied above, and further in view of Purser.

Halden et al and Gisslen teach the above mentioned concepts. Halden et al and Gisslen do not teach a pressure level of 25" Hg for at least 40 minutes. Purser teaches a method of treating poultry meat by vacuum tumbling it at 20 psi for 30 minutes (column

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2, line 20). It would have been obvious to one of ordinary skill in the art to tumble the meat at 25" Hg for at least 40 minutes in the invention of Halden et al, in view of Purser, since both are directed to methods of processing poultry meat, since Halden et al already included vacuum tumbling (column 2, line 9), and since different sized meat pieces would have required different tumbling conditions.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halden et al, in view of Gisslen, as applied above, and further in view of Savage et al.

Halden et al and Gisslen teach the above mentioned concepts. Halden et al and Gisslen do not teach 15% starch. Savage et al teach a method of injecting 15% starch into meats (column 2, line 9). It would have been obvious to one of ordinary skill in the art to incorporate the 15% starch of Savage et al into the invention of Halden et al since both are directed to methods of processing meat, since Halden et al already included injecting starch into poultry meat (column 2, lines 6-41), and since Savage et al teach that this amount of starch binds to the meat fluids and prevents their loss during cooking (column 1, lines 15-20).

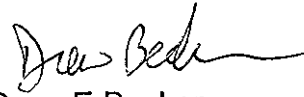
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yoshikawa et al [Pat. No. 6,248,383], JP 409308461A, Reutimann [Pat. No. 5,702,741], Wofford [Pat. No. 4,746,522], and Ensor et al [Pat. No. 6,187,366] teach methods of treating meat.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Thur. 8am-5pm and every other Fri. 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0987.

  
Drew E Becker  
Primary Examiner  
Art Unit 1761

1-15-09